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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,340	03/12/2004	Lee Weng	3382-83763-01	9918
26119 7590 12/16/2009 KLARQUIST SPARKMAN LLP 121 S.W. SALMON STREET SUITE 1600 PORTLAND, OR 97204			EXAMINER RIGGS II, LARRY D	
			ART UNIT 1631	PAPER NUMBER
			MAIL DATE 12/16/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/800,340	Applicant(s) WENG, LEE	
	Examiner LARRY D. RIGGS II	Art Unit 1631	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 October 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18, 20-57, 66, 67 and 70-188 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18, 20-57, 66, 67 and 70-188 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

In view of amendments filed on 09 October 2009 and the new ground of the rejection(s) applied below, the finality of the application is hereby withdrawn.

Status of Claims

Claims 19, 58-65, 68 and 69 are cancelled. Claims 1-18, 20-57, 66, 67 and 70-188 are currently pending and under consideration.

Withdrawn Rejections/Objections

The rejection of claims 1-18, 20-57, 66, 67 and 70 under 35 U.S.C. §101, in the Office action mailed 10 June 2009 is withdrawn in view of the amendments filed 09 October 2009.

Rejections and/or objections not reiterated from previous office actions are hereby withdrawn. The following rejections and/or objections are either reiterated or newly applied. They constitute the complete set presently being applied to the instant application.

Claim Objections

Claims 1, 6, 7, 13, 30, 45, 46, 47, 66, 71, 76, 77, 83, 114, 115, 116, 127, 130, 135, 136, 158, 173, 174, 175 and 186 are objected to because of the following informalities:

Claims 1, 6, 7, 13, 30, 45, 46, 47, 66, 71, 76, 77, 83, 114, 115, 116, 127, 130, 135, 136, 158, 173, 174, 175 and 186, recite a "weighing factor" both in language and/or

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in symbol within the equations of the claims. One skilled in the art would understand the “weighing factor” is actually a “weighting factor”.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-18, 20-57, 66, 67 and 70-188 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 30, 66, 71, 99, 127, 130, 158, 186, recite “a differential reference profile computed between C_m and C_{bar} ” and further recite “adjusting...an experiment profile A_m ...based on said differential profile”. Some embodiments comprise adjusting a processed experiment profile...using said differential profile. The metes and bounds of the limitations are unclear. One skilled in the art would be uncertain how or what it means to “adjust” an experiment profile based on/using the differential profile.

Claims 1, 30, 66, 71, 99, 127, 130, 158, 186, recite language pertaining to a “second error-corrected experiment profile” after the “or displaying:” of the outputting step. Some embodiments comprise “second error-corrected processed experiment profile”. Claim 1 (for example) recites that the second error correct profile is “obtained by” and recites apparent method steps in passive voice. It is unclear whether these are intended to be merely a product-by-process (i.e. a limitation of the data itself), or are

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intended to be (active) method steps of the instant method. Since it is unclear what limitation of the METHOD is intended by the “obtained by” limitation, the claims are unclear.

Claims 1, 3, 18, 20, 21, 22, 23, 24, 25, 26, 29, 32, 40, 41, 42, 43, 44, 66, 71, 73, 88-95, 98, 101, 104, 111-113, 127, 130, 132, 147-154, 156, 160, 163, 168, 170, 171, 172, 186, 187, recite measurements or transformed measurements. It is unclear what type of “transformation” of the data is intended, e.g. physically, mathematically, etc. If mathematical transformation is intended, then it is further unclear what mathematical manipulations are intended to be encompassed by the transformation recited.

Claims 5, 75, 134, recite “calculating for each said profile pair...said second error-corrected experiment profile” in step d). It is unclear how to calculate a “said second error corrected experiment profile” in step d) of claim 5, when step d) of claim 1 provides “said second error-corrected experiment profile A”_m...obtained by combining said first error-corrected experiment profile A’_m with said experiment profile A_m using a weighting factor...”. One skilled in the art would be uncertain how to calculate said “second error-corrected experiment profile” in step d) of claim 5, if step d) of claim 1 has already “obtained” said “second error-corrected experiment profile”. Claims 75 and 134, depend from claims 71 and 130, respectively, which include embodiments that calculate “said second error-corrected experiment profile”, when the profile had been previously “obtained” in the independent claim.

Claims 21, 39, 90, 149, recite “adjusting each of said pre-experiment profiles based on first differences...and adjusting each of pre-reference profiles...based on

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second differences" in lines 1-4 of step a0ii). The metes and bounds of the limitation are unclear. One skilled in the art would be uncertain to what the "based on differences" pertain because there are no such differences recited previously, only a potential removal of nonlinearity. Likewise it is unclear what pertains to "adjusting" the experimental and reference profiles.

Claims 30, 99, 158, recite "processing...said plurality of pairs of profiles...to obtain a plurality of pairs of processed profiles" in lines 1-2 of step a). The metes and bounds of the limitation are unclear. One skilled in the art would be unclear what steps or mathematical manipulations are intended to be encompassed by "processing", e.g. normalizing, transforming, subtracting, etc.

Claims 36, 38, 39, 105, 107, 164, 166, recite transforming normalized experimental and normalized reference data sets to obtain transformed experimental and reference data. It is unclear what type of "transformation" of the data is intended, e.g. physically, mathematically, etc. If mathematical transformation is intended, then it is further unclear what mathematical manipulations are intended to be encompassed by the transformation recited.

Claim 108, 109, 110, 167, recites calculating an average transformed profile of transformed experiment profiles and transformed reference profiles...containing transformed data sets in line 1-5 of step (a1). One skilled in the art would be uncertain from what or how the "transformed measurements" are transformed, e.g. physically, mathematically, etc.

Claim 108, 167, recites adjusting transformed experiment and reference profiles based on first and second differences, respectively in lines 1-5 of step (a2). The metes and bounds of the limitation are unclear. One skilled in the art would be uncertain what encompasses "adjusting" and there is insufficient antecedent basis for "differences" because nothing in the claims from which the cited claims depend, cites differences, but only provide "normalizing, transforming and removing nonlinearity".

Conclusion

No claim is allowed. It is noted that the claims appear to be free of the prior art. Applicant is strongly encouraged to contact the examiner for a discussion of possible amendments to overcome the rejections set forth above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LARRY D. RIGGS II whose telephone number is (571)270-3062. The examiner can normally be reached on Monday-Thursday, 7:30AM-5:00PM, ALT. Friday, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marjorie Moran can be reached on 571-272-0720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/LDR/

Larry Riggs

Examiner, Art Unit 1631

/Marjorie Moran/

Supervisory Patent Examiner, Art Unit 1631